

**REMARKS**

Responsive to the Decision by the Board of Patent Appeals and Interferences mailed March 3, 2011 ("Decision"), please consider the following remarks.

Claims 1-3, 7, 8, 13, 15, 17, 19, 152, 180-182, 186, 187, 192, 194, 196, 198 and 331 were elected without traverse and are pending in the application. Claims 4-6, 9-12, 14, 16, 18, 20-151, 153-179, 183-185, 188-191, 193, 195, 197, 199-330, and 332-432 were withdrawn from consideration. In this response, claims 1 and 180 have been amended. No new matter has been added. Entry of the amendments to claims 1 and 180 is respectfully requested. Reconsideration of the outstanding rejection in the present application is respectfully requested based on the following remarks.

**I. Claim Rejections under 35 U.S.C. § 103**

Claims 1-3, 7, 8, 13, 15, 17, 19, 152, 180-182, 186, 187, 192, 194, 196, 198 and 331 are currently rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent 5,544,036 to Brown Jr. *et al.* ("Brown") in view of US Patent 6,178,362 to Woolard *et al.* ("Woolard"). This rejection is rendered moot in view of the current amendments.

Under 35 U.S.C. § 103, the Patent Office bears the burden of establishing a prima facie case of obviousness. *In re Fine*, 837 F.2d 1071, 1074 (Fed. Cir. 1988). There are four separate factual inquiries to consider in making an obviousness determination: (1) the scope and content of the prior art; (2) the level of ordinary skill in the field of the invention; (3) the differences between the claimed invention and the prior art; and (4) the existence of any objective evidence, or "secondary considerations," of non-obviousness. *Graham v. John Deere Co.*, 383 U.S. 1, 17-18 (1966); *see also KSR Int'l Co. v. Teleflex Inc.*, 127 S. Ct. 1727 (2007). An "expansive and

flexible approach” should be applied when determining obviousness based on a combination of prior art references. *KSR*, 127 S. Ct. at 1739. However, a claimed invention combining multiple known elements is not rendered obvious simply because each element was known independently in the prior art. *Id.* at 1741. Rather, there must still be some “reason that would have prompted” a person of ordinary skill in the art to combine the elements in the specific way that he or she did. *Id.*; *In re Icon Health & Fitness, Inc.*, 496 F.3d 1374, 1380 (Fed. Cir. 2007). Also, modification of a prior art reference may be obvious only if there exists a reason that would have prompted a person of ordinary skill to make the change. *KSR*, 127 S. Ct. at 1740-41.

Regarding claim 1, the Office asserts that an embodiment of the claimed invention would have been obvious in view of Brown and Woolard. However, Applicants have amended claim 1 and thus render the aforementioned obviousness rejection of independent claim 1 moot. The current amendments are to clarify the automatic recursive feature of claim 1 without altering the scope of the claim. In particular, Applicants respectfully submit that neither the cited portions of Brown and Woolard, nor Brown and Woolard generally, disclose, or even suggest, a method and a system for controlling one or more of resource-consumption and resource-production associated with a plurality of remote devices, comprising: “receiving a monitor data message comprising one or more resource-consumption by, resource-production by, operation characteristics of, and operation state of at least one device of the plurality of remote devices,” and “automatically generating at least one informational message at a central server responsive to the monitor data message.” as recited in claim 1.

Rather, Brown discloses that the particular manner by which the various devices 16 are to be controlled is determined by programmed command data strode in each of the controller in conjunction with a pre-existing program contained in each controller 14. The programmed data

is normally generated by customer command center computer 22 and transmitted to controller 14 as paging message signals by transmitter 20. *See, e.g.,* Brown, column 3, lines 53-60. Brown also discloses that many of the paging message signals sent to controllers 14 are determined by the manner in which a user programs computer 22, using a conventional DTMF tone or pulse digital telephone communicating with computer 22. *See, e.g.,* column 3, lines 62-65. Brown further discloses that in certain instances, the energy management and automation functions programmed by the user may be overridden by the utility company when it is necessary to reduce the consumption in a particular area. In this situation, utility command center computer 24 provides signals to transmitter 20, which in turn, provides appropriate paging messages to the various controllers 14. *See, e.g.,* column 4, lines 4-10. Nowhere does Brown disclose, or even suggest, that the utility command center computer 24 “automatically” provides paging messages to the various controllers 14 “responsive to the monitor data message,” as recited in claim 1. Thus, Applicants respectfully submit that Brown fails disclose, or even suggest, “receiving a monitor data message comprising one or more resource-consumption by, resource-production by, operation characteristics of, and operation state of at least one device of the plurality of remote devices,” and “automatically generating at least one informational message at a central server responsive to the monitor data message,” as recited in claim 1.

In addition, Brown discloses that the utility company may broadcast a broad based paging message requesting each control unit 26 or 28 in a designated area to read the meter and report the results to a designated utility company telephone number. *See, e.g.,* Brown, column 6, lines 31-35. Brown also discloses that system 10 may be designed or programmed by appropriate paging messages to require each control unit 26 or 28 to report its status back to command center 22 or 24. *See, e.g.,* column 6, lines 35-41. However, Brown fails to disclose, or even suggest,

that signals provided by the utility command center computer 24 to the transmitter 20, are *automatically* generated by the utility command center computer 24 *responsive* to paging messages reported by control unit 26 or 28. Therefore, Applicants respectfully submit that Brown fails to disclose, or even suggest, this automatic recursive feature as presently claimed. Also, other applied references (e.g., Woolard) fail to disclose or teach this automatic recursive feature as presently claimed by Applicants. Accordingly, Applicants respectfully submit that claim 1 is allowable over Brown and Woolard.

Regarding claim 180, while different in overall scope from claim 1, this claim recites subject matter related to claim 1. Thus, at least some of the arguments set forth above with respect to claim 1 are similarly applicable to claim 180. Accordingly, Applicants respectfully submit that claim 180 is allowable over Brown and Woolard for analogous reasons as set forth above with respect to claim 1.

Regarding claims 2, 3, 7, 8, 13, 15, 17, 19, 152, 181, 182, 186, 187, 192, 194, 196, 198 and 331 these claims are dependent upon independent claims 1 and 180. Thus, since independent claims 1 and 180 should be allowable as discussed above, claims 2, 3, 7, 8, 13, 15, 17, 19, 152, 181, 182, 186, 187, 192, 194, 196, 198 and 331 should also be allowable at least by virtue of their dependency on independent claims 1 and 180. Moreover, these claims recite additional features which are not disclosed, or even suggested, by the cited references taken either alone or in combination.

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In view of the foregoing, Applicants respectfully request that the aforementioned obviousness rejection of claims 1-3, 7, 8, 13, 15, 17, 19, 152, 180-182, 186, 187, 192, 194, 196, 198 and 331 be withdrawn.

**CONCLUSION**

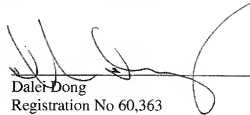
In view of the foregoing amendments and remarks, Applicants respectfully submit that this application is in condition for allowance. If the Examiner believes that prosecution and allowance of the application will be expedited through an interview, whether personal or telephonic, the Examiner is invited to telephone the undersigned with any suggestions leading to the favorable disposition of the application.

It is believed that no additional fees are due for filing this Response. However, the Director is hereby authorized to treat any current or future reply, requiring a petition for an extension of time for its timely submission as incorporating a petition for extension of time for the appropriate length of time. Applicants also authorize the Director to charge all required fees, fees under 37 C.F.R. §1.17, or all required extension of time fees, to the undersigned's Deposit Account No. 50-0206.

Respectfully submitted,

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